

LOW-LEVEL RADIOACTIVE WASTE FORUM, INC.

2657 Bayview Drive – Ft. Lauderdale, FL 33306
(754) 779-7551 * (754) 223-7452 FAX

U.S. Nuclear Regulatory Commission (NRC)

NRC Seeks Public re Draft Regulatory Analysis for Final Part 61 Rule *Specific Cost and Benefit Information Requested*

On October 17, 2017, the U.S. Nuclear Regulatory Commission (NRC) published a *Federal Register* notice requesting comment on the draft regulatory analysis, “Draft Regulatory Analysis for Final Rule: Low-Level Radioactive Waste Disposal,” and seeking specific cost and benefit information to better inform the updated draft regulatory analysis. (See 82 *Federal Register* 48,283 dated October 17, 2017.)

The Federal Register notice regarding the draft regulatory analysis for the final Part 61 rule is available at <https://www.federalregister.gov/documents/2017/10/17/2017-22459/low-level-radioactive-waste-disposal>.

Obtaining Information

Interested stakeholders may obtain publicly-available information related to this action by any of the following methods:

- Federal Rulemaking Web Site: Go to <http://www.regulations.gov> and search for Docket ID NRC-2011-0012.
- NRC’s Agencywide Documents Access and Management System (ADAMS): Publicly-available documents may be obtained online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>.
- NRC’s Public Documents Room (PDR): Copies of public documents may be obtained and purchased at the NRC’s PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

Submitting Comments

Comments are due by November 16, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

Interested stakeholders may submit comments by any of the following methods:

- Federal Rulemaking Web Site: Go to <http://www.regulations.gov> and search for Docket ID NRC-2011-0012.
- E-mail comments to: Rulemaking.Comments@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.
- Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301- 415-1101.
- Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington,DC20555-0001,ATTN: RulemakingsandAdjudicationsStaff.
- Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

Docket ID NRC-2011-0012 should be referenced when submitting comments.

Background

The NRC's licensing requirements for the disposal of commercial low-level radioactive waste in near-surface disposal facilities can be found in Part 61 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Licensing Requirements for Land Disposal of Radioactive Waste." The NRC originally adopted 10 CFR Part 61 on December 27, 1982 (47 *Federal Register* 57,446). The existing low-level radioactive waste disposal facilities are located in and licensed by Agreement States, and those Agreement States have incorporated many of the requirements in 10 CFR Part 61 into their corresponding regulations and as license conditions for their licensees.

On March 26, 2015, the NRC published a proposed rule, "Low-level Radioactive Waste Disposal," for an initial 120-day comment period in the *Federal Register* (80 *Federal Register* 16,082). The 2015 proposed rule would have implemented changes to require new and revised site specific technical analyses and other requirements that would have permitted the development of site-specific waste acceptance criteria (WAC) based on the results of these analyses. In the 2015 proposed rule, the NRC explained that the changes would better align the requirements with current health and safety standards (i.e., 10 CFR Part 20) and identify any additional measures that would be prudent to implement for continued disposal of radioactive low-level radioactive waste at a particular land disposal facility. In summary, the 2015 proposed rule would have specified requirements for:

- technical analyses for demonstrating compliance with the public dose limits;
- technical analyses for demonstrating compliance with dose limits for protection of inadvertent intruders;

- identification and description of defense-in-depth protections that, taken together with the technical analyses, constitute the safety case;
- development of site-specific WAC; and,
- implementation of current dosimetry in the technical analyses.

As a result of the comments received on the proposed rule, the NRC staff drafted a final rule package for Commission review, “SECY-16-0106, FINAL RULE: Low-Level Radioactive Waste Disposal (10 CFR Part 61) (RIN 3150-AI92),” dated September 15, 2016. The draft final rule package is available for review under ADAMS Accession No. ML16188A290 and includes a draft *Federal Register* notice (ADAMS Accession No. ML16188A371) and a draft final regulatory analysis (ADAMS Accession No. ML16189A050).

In response to SECY-16-0106, the Commission issued a Staff Requirements Memorandum (SRM), SRM-SECY-16-0106 (ADAMS Accession No. ML17251B147), dated September 8, 2017, which directed the NRC staff to publish a supplemental proposed rule for public comment that is revised to include Commission-directed rule changes. The Commission directed the following changes that are pertinent to this public comment request:

- compliance period of 1,000 years, independent of radionuclide content;
- new requirements applicable to all future low-level radioactive waste disposal facilities; and,
- the regulator may use a case-by-case basis (i.e., "grandfather provision") for applying new requirements to only those sites that plan to accept large quantities of depleted uranium for disposal.

Discussion

In addition to specified rule language changes, the Commission, in SRM-SECY-16-0106, also directed the NRC staff to “be informed by broader and more fully integrated, but reasonably foreseeable costs and benefits to the U.S. waste disposal system resulting from the proposed rule changes, including pass-through costs to waste generators and processors.” To support development of the new supplemental proposed rule as directed by the Commission in SRM-SECY-16-0106, the NRC staff is seeking comment on how to improve the approach/methodology and actual cost data currently used in the draft final rule regulatory analysis to provide more accurate cost and benefit data in the final regulatory analysis. In particular, the NRC is seeking information on any cost changes that should be incorporated into the regulatory analysis in light of the Commission’s changes to the draft final rule.

All comments provided will be considered in improving the regulatory analysis to ensure that it is sufficiently informed by broader and more fully integrated, but reasonably foreseeable, costs and benefits to the U.S. waste disposal system; however, the NRC staff does not plan to provide responses to these comments. In addition, the NRC staff is requesting that comments be limited to focus on the regulatory analysis itself—the NRC plans to issue a separate notice and comment period on the changes being proposed in the supplemental proposed rule in 2018. At that time, members of the public will also be provided another opportunity to provide comments on the revised regulatory analysis, which will be updated based on comments from this action.

During the comment period for this action, the NRC will conduct a public meeting at the NRC's headquarters that will explain the cost and benefit information it is seeking in the notice and to address questions. Information regarding the public meeting is posted on the NRC's public meeting Web site. The NRC's public meeting website is located at <https://www.nrc.gov/public-involve.html>.

The NRC has also posted the meeting notice on the Federal rulemaking website at <http://www.regulations.gov> under Docket ID NRC-2011-0012. The NRC will post additional materials related to this document, including any public comments received, on the Federal rulemaking website. The federal rulemaking website allows interested stakeholders to receive alerts when changes or additions occur in a docket folder.

Requested Information and Comments

NRC is providing the below specific questions associated with the draft regulatory analysis (ADAMS Accession No. ML16189A050). The questions will also be discussed at the public meeting. The NRC staff will consider the responses to the questions as it revises the regulatory analysis.

- Question 1: Is the NRC considering appropriate alternatives for the regulatory action described in the draft regulatory analysis?
- Question 2: Are there additional factors that the NRC should consider in the regulatory action? What are these factors?
- Question 3: Is there additional information concerning regulatory impacts that the NRC should include in its regulatory analysis for this rulemaking?
- Question 4: Are all costs and benefits properly addressed to determine the economic impact of the rulemaking alternatives? What cost differences would be expected from moving from the discussed 1,000 year and 10,000 year compliance periods to a single 1,000 year compliance period? Are there any unintended consequences of making this revision?
- Question 5: Are there any costs that should be assigned to those sites not planning to accept large quantities of depleted uranium for disposal in the future?

- Question 6: Is NRC's assumption that only two existing low-level radioactive waste sites (i.e., EnergySolutions' Clive Utah disposal facility and Waste Control Specialists' Texas disposal facility) plan to accept large quantities of depleted uranium for disposal in the future reasonable?
- Question 7: What additional costs or cost savings, not already considered in the draft regulatory analysis, will the supplemental proposed rulemaking or alternatives cause to society, industry, and government? What are the potential transfer ("pass-through") costs to the waste generators and processors?

For additional information, please contact Gregory Trussell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, at (301) 415-6445 or at Gregory.Trussell@nrc.gov.

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*Todd D. Lovinger, Esq.
Executive Director
LLW Forum, Inc.
(754) 779-7551*

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